

Xx11

পঞ্জীভুক্ত নম্বৰ - ৭৬৮/৯৭

Registered No. - 768/97

অসম



ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

নং 190 দিশপুৰ, শনিবাৰ, 18 চেপ্তেম্বৰ, 2004, 27 ভাদ্ৰ, 1926 (শক)
No.190 Dispur, Saturday, 18th September, 2004, 27th Bhadra, 1926 (S.E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 17th September, 2004

No. IGL.33/2003/7.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXII OF 2004

(Received the assent of the Governor on 9th September, 2004)

THE INDIAN STAMP (ASSAM AMENDMENT) ACT, 2004

AN

ACT

**further to amend the Indian Stamp Act, 1899,
in its application to the State of Assam.**

Preamble.

Whereas it is expedient further to amend the Indian Stamp Act, 1899, hereinafter referred to as the principal Act, in its application to the State of Assam, in the manner hereinafter appearing,

Central Act II
of 1899.

It is hereby enacted in the Fifty-fifth Year of the Republic of India as follows :-

Short title,
extent and
commencement.

1. (1) This Act may be called the Indian Stamp (Assam Amendment) Act, 2004.
- (2) It extends to the whole of Assam.
- (3) It shall come into force at once.

Insertion of
section 10A.

he principal Act, after the existing section the following shall be inserted as section A, namely :-

“For shortage
of stamps how
duty to be paid.

- 10A, (1) Notwithstanding anything contained in section 10, where the State Government or the Collector, as the case may be, is satisfied that there is shortage of stamps in the district or stamps of required denominations are not available, the State Government or the Collector may permit payment of the duty to be paid in cash or by way of Demand Draft or by Pay Order and authorize the Treasury Officer or Sub-Treasury Officer or Sub-Registrar or any other authorised officer, as the case may be, on production of a challan evidencing payment of duty in the Government Treasury or Sub-

Treasury of a Demand Draft or by Pay Order drawn on a branch of any Scheduled bank, as the case may be, after due verification, to certify in such manner as may be prescribed, by endorsement on the instrument of the amount of duty so paid in cash.

Explanation :- Government Treasury includes a Government Sub-Treasury and any other place as the State Government may, by notification in the Assam Gazette, appoint in this behalf :

Provided that the State Government may, by order published in the Official Gazette, direct that the power exercisable by it or by the Collector under this section may be exercised by such other officers as may be specified in the order.

- (2) An endorsement made on any instrument under sub-section (1) shall have the same effect as if the duty of an amount equal to the amount stated in the endorsement has been paid in respect thereof and such payment has been indicated on such instrument by means of stamps in accordance with the requirements of section 10.
- (3) Nothing in this section shall apply to -
- (i) the payment of stamp duty chargeable on the instruments specified in Entry 91 of List I of the Seventh Schedule to the Constitution of India ; and
 - (ii) the instruments presented after six months from the date of their execution or first execution.”

Amendment of section 17. 3. In the principal Act, in section 17, after the existing provision, the following proviso shall be inserted, namely :-

“Provided that nothing in this section shall apply to the instrument in respect of which stamp duty has been paid under section 10-A.”

Amendment of section 27. 4. In the principal Act, in section 27, for the words and brackets “The consideration (if any)”, the words “the market value of the property” shall be substituted.

**Insertion of section 27A:
“Instrument of conveyance etc. under valued how to be dealt with.** 5. In the principal Act, after section 27, the following new section shall be inserted, namely :-

27A. (1) If the Registering Officer appointed under the Registration Act, 1908 while registering any instrument of conveyance, exchange or gift has reason to believe that the market value of the property as fixed by the Government/Collector of the district, which is subject matter of conveyance, exchange or gift had not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the market value of such proper and the property duty payable thereon.

Central Act
16 of 1908.

(2) On receipt of a reference under sub-section (1), the Collector shall, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules made under this Act, determine the market value of the property which is the subject matter of conveyance, exchange or gift and the duty as aforesaid, and thereupon the difference, if any, in the amount of duty, shall be payable by the persons liable to pay the duty.

(3) The Collector may, on his own motion or otherwise, within two years from the date of registration of any instrument or conveyance, exchange or gift not already

referred to him under sub-section (1) call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property as set forth in such instrument, which is the subject matter of conveyance, exchange or gift and the duty payable thereon and if after such examination he has reason to believe that the market value of such property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid and thereupon the difference, if any in the amount of duty, shall be payable by the person liable to pay the duty :

Provided that nothing in this sub-section shall apply to instrument registered before the date of commencement of the Indian Stamp (Assam Amendment) Act, 2004.

- (4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may prefer an appeal to the Civil Judge of appropriate jurisdiction and all such appeals shall be preferred within such time and shall be heard and disposed of in such manner as may be prescribed.

Explanation :- For the purpose of this Act, market value of any property shall be estimated to be the price which in the opinion of the Collector or the Civil Judge Senior Division, as the case may be, such property would have fetched or would fetch, if sold in the open market on the date of execution of the instrument of conveyance, exchange or gift.

Substitution of section 78.

6. In the principal Act, for section 78, the following shall be substituted, namely :-

“Duty or allowance to be rounded off to 78 the next rupee.”

If the total amount of duty payable, or of allowance to be made under this Act is not a round figure, the total amount shall be rounded off to the next rupee.”

Amendment
of Schedule I
of Act II of
1899.

7. In the principal Act, in Schedule- I, for item Nos. 1-5, 12, 15-20, 22-26, 28-29, 31, 33, 34-36, 38-40, 42-43, 45, 46, 48, 54, 57-58, 60, 61, 63-65, the following shall be substituted, namely :-

| <u>“Description of Instruments</u> | <u>Proper Stamp Duty</u> |
|---|--|
| 1. Acknowledgement | Fifty Rupees. |
| 2. Administration Bond including Bond given under section 6 of the Government Saving Bank Act, 1873 or Section 291 or Section 376 of the Indian Succession Act, 1925 : | |
| (a) Where the amount does not exceed Rs.1,000. | The same duty as a bond (No. 15) for such amount. |
| (b) In any other case | Twenty rupees. |
| 3. Adoption Deed | Two hundred rupees. |
| 4. Affidavit | Fifteen rupees. |
| 5. Agreement or memorandum of an Agreement : | |
| (a) If relating to sale of a bill of exchange. | Five rupees. |
| (b) If relating to sale of a Government Security. | Subject to maximum of Rs. 100 for every Rs. 10,000 or part thereof of the value of Security. |
| (c) if relating to purchase or sale of shares, scripts, stocks, bonds, debentures, debenture stocks or any other marketable security of a like nature in or any incorporated company or other body corporate- | |
| (i) when such agreement or memorandum of an agreement is with or through a member or between members of a stock exchange recognised under the Securities Contracts (Regulation) Act, 1956. | Three rupees for every Rs. 5000 or part thereof of the value of the security at the time of its purchase or sale as the case may be. |

(ii) in other cases Five rupees for every Rs. 5000 or part thereof of the value of the security at the time of its purchase or sale as the case may be.

(d) If executed for service or for performance of work in any estate whether held by one person or by more persons than one as co-owners and whether in one or more blocks and situated in Assam where the advance given under such agreement does not exceed one thousand rupees. Five rupees

Agreement to lease.

(e) if not, otherwise provided for Ten rupees

12. Award :

(a) Where amount or value of the property to which the award relates as set forth in such award, does not exceed Rs. 1,000. The same duty a Bond for such amount.

(b) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000. Twenty rupees.

and for every additional Rs. 1,000 or part thereof in excess of Rs.5,000. Two rupees subject to a maximum of one hundred and thirteen rupees.

15. Bond [As defined by Section 2(5)] not being debenture (No-27) and not being otherwise provided for by this Act or by the Court Fees Act, 1870

Ten rupees.

Where the amount of value secured does not exceed Rs. 500.

- where it exceeds Rs.500 and does not exceed Rs. 1,000. Twenty rupees.
- and for every Rs. 500 or part thereof in excess of Rs.1,000. Rs. 10
16. Bottomry Bond that is to say, any instrument whereby the master of sea going ship borrows money on the security of a ship to enable him to preserve the ship or pre-secute her voyage- The same duty as a Bond (No-15) for such amount.
17. Cancellation instrument of (including any instrument by which any previously executed is cancelled) if attested and not otherwise provided for. Thirty rupees.
18. Certificate of sale (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court or Collector or Revenue Officer. Same duty as on Conveyance (No.23) for a market value of equal to the amount of the purchase money only
19. Certificate or other document evidencing the right or title of the holder thereof or any other person either to any shares, script or stock in or of any incorporated company or other body corporate or to become proprietor of shares, script or stock in, or of any such company or body. Five rupees.
20. Charter Party, that is to say, any instrument (except and agreement for the hire of a tug steamer), whereby a vessel or some specified principal part thereof is left for the specified purpose of the charter whether it includes a penalty clause or not. Fifteen rupees.

22. Composition Deed that is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors or whereby payment of a composition or dividend on their debts is secured to the creditors or whereby provision is made for the continuance of the debtor business, under the supervision of inspectors or under letters of licence, for the benefit of his creditors. Seventy five rupees.

23. Conveyance (As defined by section 2(10) not being a Transfer charged or exempted under No. 62.

Where the market value of the property for such conveyance as set forth therein does not exceed Rs. 1000. Fifty rupees.

Where it exceeds Rs. 1000 but does not exceed Rs. 10000. Sixty rupees per thousand or part thereof

Where it exceeds Rs. 10,000 but does not exceed Rs. 50,000. Sixty five rupees per thousand or part thereof

Where it exceeds Rs. 50,000 but does not exceed Rs. 1,00,000. Eighty rupees per thousand or part thereof

And for every Rs. 1,000 or part thereof in excess of Rs. 1,00,000. One hundred twenty rupees.

Provided that where the instrument or the conveyance is in respect of an industrial loan certified as such by the Director of Industries, Assam the stamp duty shall be half of the above rate.

24. Copy or extract certified to be true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees.
- (i) If the original was not chargeable with duty or if the duty with which it was chargeable does not exceed two rupees. Five rupees.
- (ii) in any other case not falling within the provisions of section 6-A. Ten rupees.
25. Counterpart or Duplicate of any instrument chargeable with duty and in respect of which proper duty has been paid.
- (a) if the duty with which the original instrument is chargeable does not exceed two rupees. The same duty as is payable on the original.
- (b) in any other case not falling within the provisions of Section 6-A. Ten rupees
26. Customs Bonds -
- (a) Where the amount does not exceed Rs. 1,000. The same duty as bond for such amount.
- (b) in any other case. Fifty rupees
28. Delivery order in respect goods. Five rupees
29. Divorce instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage. Fifty rupees.

31. Exchange of property, instrument of
The same duty as conveyance (No. 23) for market value equal to the market value of the property of greatest value as set forth in such instrument.

33. Gift instrument of not being a settlement (No. 58) or will or transfer (No. 62)
The same duty as conveyance (No. 23) for market value equal to the market value of the property of greatest value as set forth in such instrument.

34. Indemnity Bond
The same duty as security bond for the same amount.

35. LEASE-including an under lease or sub-lease and any agreement to let or sub-let :-

(a) Where by such lease is fixed and no premium is paid or delivered.

(i) Where the lease purports to be for a term of less than one year.
The same duty as a Bond (No. 10) for the whole amount payable or deliverable under such lease.

(ii) Where the lease purports to be for a term of not less than one year but not more than five years.
The same duty as a Bond (No. 15) for the amount or value of the average annual rent reserved

(iii) Where the lease purports to be for a term exceeding five years, and not exceeding ten years.
The same duty as a conveyance (No. 23) for a market value equal to the amount or value of the average annual rent reserved.

- (iv) Where the lease purports to be for a term exceeding ten years, but not exceeding twenty years. The same duty as a conveyance (No. 23) for a market value equal to twice the amount or value of the average annual rent reserved.
- (v) Where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years. The same duty as a conveyance (No. 23) for a market value equal to three times the amount or value of the average annual rent reserved.
- (vi) Where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years. The same duty as a conveyance (No. 23) for a market value equal to four times the amount or value of the average annual rent reserved.
- (vii) Where the lease purports to be for a term exceeding one hundred years, or in perpetuity. The same duty as a conveyance (No. 23) for a market value equal in the case of a lease granted solely for agricultural purposes to one-tenth and in any other case to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
- (viii) Where the lease does not purport to be for any definite term. The same duty as a conveyance (No. 23) for a market value equal to three times the amount or value of the average annual rent

which would be paid or delivered for the first ten years if the lease continued so long.

- (b) Where the lease is granted for a fine or premium or for money advanced and where no rent is reserved. The same duty as a conveyance (No. 23) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease.
- (c) Where the lease is granted for a fine or premium or for money advanced in addition to rent reserved. The same duty as a conveyance (No. 23) for a market value equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered :

Provided that, in any case where an agreement to lease is stamped with the advalorem stamp required for a lease and a lease in pursuance of such agreement is subsequently executed the duty on such lease shall not exceed two rupees.

Exemption

Lease, executed in the case of cultivator and for the purpose of cultivation (including a lease of trees for the production of food or drink) without the payment

or, delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.

In this exemption a lease for the purpose of cultivation shall including a lease of lands for cultivation together with a homestead or tank.

Explanation :- When lease undertakes to pay any recurring charge, such as Government revenue, landlords share of cesses, or the owner's share of municipal rates of taxes, which is by law recoverable from the lessor, the amounts so agreed to be paid by the lessee shall be deemed to be part of the rent.

36. Letter of allotment of shares in any company or proposed company or in respect of any loan to be raised by any company or proposed company. Five rupees.

38. Letter of licence that is to say, any agreement between a debtor and his creditors that the letter shall for a specified time suspend their claims and allow the debtor to carry on business at his own discretion. Fifty rupees.

39. Memorandum of Association of a Company
- (a) If accompanied by articles of association under section 26, 27 and 28 of the Companies Act, 1958. Two hundred rupees.
- (b) If not so accompanied. Five hundred rupees.
40. MORTGAGE DEED not being an agreement relating to Deposit of Title deeds pawn or pledge (No. 6) Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57).
- (a) When possession of the property or any part of the property comprised in such deed is given by the mortgagor on agreed to be given. The same duty as a conveyance (No. 23) for a market value equal to the amount secured by such deed.
- (b) When possession is not given or agreed to be given as aforesaid. The same duty as a Bond (No. 15) for the amount secured by such deed.
- Explanation** - A mortgagor who gives to the mortgagee a power of attorney to collect rents or a lease of the property mortgaged or part thereof is deemed to give possession within the meaning of this article.
- (c)(i) When a collateral or auxiliary or additional or substituted security, or by Three rupees.

way of further assurance for the above mentioned purpose where the principal or primary security is duly stamped for every sum secured not exceeding Rs. 1,000.

- (ii) and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000. Four rupees.

Exemptions

- (1) Instruments executed by persons taking advance under the Land Improvement Loans Act, 1983 or the Agriculturists' Loans Act, 1884, or by their sureties as security for the repayment of such advances. Act. XIX of 1883.
- (2) Letter of hypothecation accompanying a bill of exchange. Act. XII of 1884
42. Notarial Act, that is to say, instrument, endorsement, note attestation certificate or entry not being a protest (No. 50) made or signed by a Notary Public in the execution of the duties of his office or by any other person lawfully acting as not any public. Fifteen rupees.
43. Note or Memorandum sent by a Broker or Agent to his Principal intimating the purchase or sale on account of such principal.

- (a) of any goods exceeding in value twenty rupees. Five rupees.
- (b) of any stock or marketable security exceeding in value twenty rupees. Five rupees for every Rs. 10,000 or part thereof of the value of the stock or security.

Note of Protest by the Master of Ship Ten rupees.

45. PARTITION- Instrument of [As defined by section 2(15)]. The same duty as a Bond (No. 15) for the amount or the value of the separated share or shares of the property.

N.B. - The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other share then one of such equal share) shall be deemed to be that from which the other shares are separated.

Provided always that -

- (a) When an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than three rupees and thirty paise ;

(b) Where land is held on revenue settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than fifty times the annual revenue,

(c) Where a final order for effecting a partition passed by any revenue authority or any Civil Court, or an award by an arbitrator directing a partition is stamped with stamp required for an instrument of partition and an instrument of partition in pursuance of such order of award is subsequently executed the duty in such instrument shall not exceed three rupees and thirty paise.

46. Partnership

A - Instrument of -

- (a) where the capital of the partnership does not exceed Rs. 1,000. The same as the Bond (No. 15)
- (b) in any other case Rupees one hundred

B - Dissolution of -

Power or Pledge - See Fifty rupees.
 Agreement relating to deposit of Title deeds
 Power of Pledge (No. 6)

48. Power of Attorney (As defined by Sec. (21), not being proxy

- (a) When executed for the sole purpose of procuring the Fifteen rupees

registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.

- (b) When required in suits or proceedings under Presidency Small Cause Courts Act, 1882. Fifty rupees
- (c) When authorising one person or more to act in a single transaction other than the case mentioned in clause (a). One hundred rupees
- (d) When authorising not more than five persons to act jointly and severally in more than one transaction or generally. Two hundred rupees
- (e) When authorising more than five, but not more than ten persons to act jointly and severally in more than one transaction or generally. Four hundred rupees
- (f) When given for consideration and authorising the attorney to sell any immovale property. Same duty as a conveyance (No. 23) for the amount of the market value.
- (g) In any other case One hundred rupees

54. RECONVEYANCE OF MORTGAGED PROPERTY -

- (a) If the consideration for which the property was mortgaged does not exceed Rs.1000. The same duty as a conveyance (No. 23) for the amount of the market value as set forth in the conveyance.
- (b) If any other case Sixty rupees.

55. Release

(a) if the amount or value of the claim does not exceed Rs. 1000. The same duty as a Bond for such amount or value as set forth in the Release.

(b) in any other case Fifty rupees.

57. Security Bond or Mortgaged Deed executed by way of security for the due execution of an office or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract.

(a) when the amount secured does not exceed Rs. 1,000 The same duty as Bond for the amount secured.

(b) in any other case Fifty rupees.

58. Settlement

A. Instrument of, (including a deed of dower). The same duty as a conveyance (No. 23).

B. Revocation of. The same duty as a conveyance for a sum equal to the amount of value of the property concerned as set forth in the instrument of revocation.

60. Shipping order Five rupees.

61. Surrender of Lease

(a) when the duty with which the lease is chargeable does not exceed ten rupees. The duty with which such lease is chargeable.

63. Transfer of Lease by way of assignment and not by way of under lease. The same duty as a conveyance (No. 23) for a market value equal to the amount of the market value for the transfer.

Exemptions

Transfer of any lease exempt from duty.

64. Trust

A.- Declaration of, or concerning any property when made by any writing not being a will

The same duty as a Bond for a sum equal to the amount or value of the property concern, as set forth in the instrument.

B.- Revocation of, or concerning, any property when made by instrument, any other than a will.

The same duty as a Bond (No. 15) for a sum equal to the amount or value of the property concerned, as set forth in the instrument, but not exceeding thirty rupees.

65. Warrant for Goods

Five rupees.”

M. K. DEKA,
Commissioner & Secretary to the Govt. of Assam,
Legislative Department, Dispur.